

CHAPTER 365

MOTOR VEHICLE TIME SALES

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CROSS REFERENCES

Default procedures, sections 408.551 to 408.562 applicable, RSMo 408.551
Motor vehicle, sales on repossessions no registration required, RSMo 301.256

365.010. Citation of law. – Sections 365.010 to 365.160 shall be known and may be cited as the "Missouri Motor Vehicle Time Sales Law".
(L. 1963 p. 466 § 1, A.L. 1999 S.B. 386)

365.020. Definitions. - Unless otherwise clearly indicated by the context, the following words and phrases have the meanings indicated:

(1) **"Cash sale price"**, the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if the sale had been a sale for cash or at a cash price instead of a retail installment transaction at a time sale price. The cash sale price may include any taxes, registration, certificate of title, license and other fees and charges for accessories and their installment and for delivery, servicing, repairing or improving the motor vehicle;

(2) **"Director"**, the office of the director of the division of finance;

(3) **"Holder"** of a retail installment contract, the retail seller of the motor vehicle under the contract or, if the

contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;

(4) **"Insurance company"**, any form of lawfully authorized insurer in this state;

(5) **"Motor vehicle"**, any new or used automobile, mobile home, motorcycle, all-terrain vehicle, motorized bicycle, moped, motortricycle, truck, trailer, semitrailer, truck tractor, or bus having a cash sale price of seven thousand five hundred dollars or less primarily designed or used to transport persons or property on a public highway, road or street;

(6) **"Official fees"**, the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction;

(7) **"Person"**, an individual, partnership, corporation, association, and any other group however organized;

(8) **"Principal balance"**, the cash sale price of the motor vehicle which is the subject matter of the retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits, including any amounts paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien, or lease interest on property traded in and official fees, minus the amount of the buyer's down payment in money or goods. Notwithstanding any law to the contrary, any amount actually paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien or lease on property traded in which was included in a contract prior to the effective date of this section is valid and legal;

(9) **"Retail buyer"** or **"buyer"**, a person who buys a motor vehicle from a retail seller in a retail installment transaction under a retail installment contract;

(10) **"Retail installment contract"** or **"contract"**, an agreement evidencing a retail installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle, which is the subject matter of the retail installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a chattel mortgage or a conditional sales contract;

(11) **"Retail installment transaction"**, a sale of a motor vehicle by a retail seller to a retail buyer on time under a retail installment contract for a time sale price payable in one or more deferred installments;

(12) **"Retail seller"** or **"seller"**, a person who sells a motor vehicle, not principally for resale, to a retail buyer under a retail installment contract;

(13) **"Sales finance company"**, a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, loan and investment company, savings and loan association, financing institution, or registrant pursuant to sections 367.100 to 367.200, RSMo, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated or successive purchases of retail installment contracts from the same seller;

(14) **"Time price differential"**, the amount, however denominated or expressed, as limited by section 365.120, in addition to the principal balance to be paid by the buyer for the privilege of purchasing the motor vehicle on time to be paid for by the buyer in one or more deferred installments;

(15) **"Time sale price"**, the total of the cash sale price of the motor vehicle and the amount, if any, included for

insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and time price differential.

(L. 1963 p. 466 § 2, A.L. 1999 S.B. 386, A.L. 2000 S.B. 896)

(1973) By regulating motor vehicle time sales of vehicles having a cash sale price of \$7,500 or less the G.A. did not prohibit such sales having a cash sales price in excess of such amount. DePoortere v. Commercial Credit Corp. (A.), 500 S.W.2d 724.

365.030. Sales finance company, license required - exceptions - application - fee. - 1. No person shall engage in the business of a sales finance company in this state without a license as provided in this chapter; except, that no bank, trust company, savings and loan association, loan and investment company or registrant under the provisions of sections 367.100 to 367.200, RSMo, authorized to do business in this state is required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of three hundred dollars for each place of business of the licensee in this state. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location is changed, the director shall either endorse the change of location on the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

(L. 1963 p. 466 § 3, A.L. 1986 H.B. 1195, A.L. 2003 S.B. 346)

365.040. License denied or suspended - grounds - hearing and review. - 1. Renewal of a license originally granted under this chapter may be denied, or a license may be suspended or revoked by the director on the following grounds:

- (1) Material misstatement in the application for license;
- (2) Willful failure to comply with any provision of this chapter relating to retail installment contracts;
- (3) Defrauding any retail buyer to the buyer's damage;
- (4) Fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under this chapter.

2. If a licensee is a partnership, association or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed association or corporation, or any member of a licensed partnership, has so acted or failed to act as would be cause for suspending or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if the licensee after actual

knowledge of the acts retained the benefits, proceeds, profits or advantages accruing from the acts or otherwise ratified the acts.

3. No license shall be denied, suspended or revoked except after hearing thereon. The hearing and review thereof shall be conducted according to chapter 536, RSMo.

(L. 1963 p. 466 § 4)

365.050. Director may examine persons, inspect records - complaints of violations. - 1. The director, or his duly authorized representative, may make such investigation as he shall deem necessary and, to the extent necessary for this purpose, he may examine the licensee or any other person having personal knowledge of the matters under investigation, and shall have the power to compel the production of all relevant books, records, accounts and documents of licensees and other persons with respect to their retail installment transactions.

2. Any retail buyer having reason to believe that this chapter relating to his retail installment contract has been violated may file with the director a written complaint setting forth the details of the alleged violation and the director, upon receipt of the complaint, may inspect the pertinent books, records, letters and contracts of the licensee and other persons and of the retail seller involved, relating to the specific written complaint.

(L. 1963 p. 466 § 5)

365.060. Rules and regulations, procedure - subpoenas, enforced how. - 1. The director may adopt and promulgate such reasonable rules and regulations as shall be necessary to carry out the intent and purposes of this chapter. A copy of every rule or regulation shall be mailed to each licensee and to each bank, trust company, loan and investment company, financing institution, and registrant under sections 367.100 to 367.200, RSMo, postage prepaid, at least fifteen days in advance of its effective date, but the failure of a licensee or other person to receive a copy of the rules or regulations does not exempt him from the duty of compliance with rules and regulations lawfully promulgated hereunder. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

2. The director shall issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which he has jurisdiction, control or supervision pertaining to this chapter. The director may administer oaths and affirmations to any person whose testimony is required.

3. If any person refuses to obey any subpoena, or to give testimony, or to produce evidence as required thereby, any judge of the circuit court of the county in which the licensed premises are located may, upon application and proof of the refusal, make an order awarding process of subpoena or subpoena duces tecum for the witness to appear before the director and to give testimony, and to produce evidence as required thereby. Upon filing the order, in the office of the clerk of the court, the clerk shall issue process of subpoena, as directed, under the seal of the court, requiring the person to whom it is directed, to appear at the time and place therein designated.

4. If any person served with any subpoena refuses to obey the same, and to give testimony, and to produce evidence as required thereby, the director may apply to the judge of the court issuing the subpoena for an attachment against the person, as for a contempt. The judge, upon satisfactory proof of the refusal, shall issue an attachment, directed to any sheriff, constable or police officer, for the arrest of the person, and, upon his being brought before the judge, proceed to a hearing of the case. The judge may enforce obedience to the subpoena, and the answering of any question, and the production of any evidence that may be proper by a fine, not exceeding one hundred dollars,

or by imprisonment in the county jail, or by both fine and imprisonment, and to compel the witness to pay the costs of the proceeding to be taxed.

(L. 1963 p. 466 § 6, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

365.070. Retail installment contracts to be in writing - form, contents. - 1. Each retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer. In addition to the retail installment contract, the seller may require the buyer to execute and deliver a negotiable promissory note to evidence the indebtedness created by the retail installment transaction and the seller may require security for the payment of the indebtedness or the performance of any other condition of the transaction. Every note executed pursuant to a retail installment contract shall expressly state that it is subject to prepayment privilege required by law and the refund required by law in such cases. Any such note, if otherwise negotiable under the provisions of sections 400.3-101 to 400.3-805, RSMo, shall be negotiable. The retail installment contract may evidence the security.

2. The printed portion of the contract, other than instructions for completion, shall be in at least eight point type. The contract shall contain the following notice in a size equal to at least ten point bold type:

"Notice to the Buyer.

Do not sign this contract before you read it or if it contains any blank spaces.

You are entitled to an exact copy of the contract you sign.

Under the law you have the right to pay off in advance the full amount due and to obtain a partial refund of the time price differential."

3. The contract shall also contain, in a size equal to at least ten point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

4. The seller shall deliver to the buyer, or mail to him at his address shown on the contract, a copy of the contract signed by the seller. Until the seller does so, a buyer who has not received delivery of the motor vehicle may rescind his agreement and receive a refund of all payments made and return of all goods traded in to the seller on account of or in contemplation of the contract, or if the goods cannot be returned, the value thereof. Any acknowledgment by the buyer of delivery of a copy of the contract shall be in a size equal to at least ten point bold type and, if contained in the contract, shall appear directly above the buyer's signature.

5. The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence of the buyer and a brief description of the motor vehicle including its make, year model, model and identification numbers or marks.

6. The contract shall contain the following items:

- (1) The cash sale price of the motor vehicle;
- (2) The amount of the buyer's down payment, and whether made in money or goods, or partly in money and partly in goods, including a brief description of the goods traded in;
- (3) The difference between items one and two;
- (4) The aggregate amount, if any, if a separate identified charge is made therefor, included for all insurance on the motor vehicle against loss, damage to or destruction of the motor vehicle, specifying the types of coverage and period;
- (5) The aggregate amount, if any, if a separate identified charge is made therefor, included for all bodily injury and property damage liability insurance for injuries to the person

or property of others, specifying the types of coverage and coverage period;

(6) The aggregate amount, if any, if a separate identified charge is made therefor, included for all life, accident or health insurance, specifying the types of coverage and coverage period;

(7) The amounts, if any, if a separate identified charge is made therefor, included for other insurance and benefits, specifying the types of coverage and benefits and the coverage periods and separately stating each amount for each insurance premium or benefit;

(8) The amount of official fees;

(9) The principal balance which is the sum of items (3), (4), (5), (6), (7) and (8);

(10) The amount of the time price differential expressed in the contract as a percent per annum;

(11) The total amount of the time balance stated as one sum in dollars and cents, which is the sum of items (9) and (10), payable in installments by the buyer to the seller, the number of installments, the amount of each installment and the due date or period thereof based on the contract's original amortization schedule; and

(12) The time sale price. The above items need not be stated in the sequence or order set forth.

(L. 1963 p. 466 § 7, A.L. 1969 H.B. 670 merged with H.B. 684, A.L. 2002 H.B. 2008)

365.080. Insurance included in retail installment transactions - restrictions. - 1. The amount, if any,

included in any retail installment transaction for insurance, if a separate identified charge is made for the insurance, which insurance may be purchased by the holder of the contract, shall not exceed the applicable premiums chargeable in accordance with the rates approved by the department of insurance of this state where the rates are required by law to be approved by the department. All insurance shall be written by an insurance company authorized to do business in this state and all policies written in this state shall be countersigned by a duly licensed resident agent authorized to engage in the insurance business in this state, unless otherwise provided by law. A buyer may be required to provide insurance on the motor vehicle at his own cost for the protection of the seller or holder, as well as the buyer, but the insurance shall be limited to insurance against substantial risk of loss, damage or destruction of the motor vehicle. Any other insurance, including insurance providing involuntary unemployment coverage, may be included in a retail installment transaction at the buyer's expense only if contracted for voluntarily by the buyer. If the insurance for which the identified charge is made insures the safety or health of the buyer or his interest in the motor vehicle and is purchased by the holder, it shall be subject to the limitations provided for in the regulations promulgated and issued by the director pursuant to the provision of subsection 1 of section 365.060. The holder shall within thirty days after the execution of the retail installment contract send or cause to be sent to the buyer a policy or certificate of insurance, clearly setting forth the amount of the cost of the policy or certificate of insurance, the kinds of insurance, and, if a policy, all the terms, exceptions, limitations, restrictions and conditions of the contract of insurance, or, if a certificate, a summary of the certificate. The seller shall not decline existing insurance written by an insurance company authorized to do business in this state and the buyer shall have the privilege of purchasing insurance from an agent or broker of his own selection and of selecting his insurance company; except, that the insurance company shall be acceptable to the holder, and further, that the inclusion of the cost of the insurance in the retail installment contract when the buyer selects his agent, broker or company, shall be optional with the seller.

2. If any insurance is canceled, or the premium adjusted, any refund of the insurance premium received by the holder shall be credited to the final maturing installments of the contract except to the extent applied toward payment for similar

insurance protecting the interests of the buyer and the holder or either of them.

3. The amount of any life insurance shall not exceed the amount of the total unpaid balance from time to time; except, that where the buyer's obligation is repayable in payments which are not substantially equal in amount, the insurance may be level term insurance in an amount which shall not exceed by more than five dollars the time balance as determined under subsection 6 of section 365.070.

(L. 1963 p. 466 § 8, A.L. 1989 H.B. 615 & 563)

365.090. Transfer of equity in motor vehicle -

fee. - A buyer may transfer his equity in the motor vehicle in which the holder has a property interest at any time to another person upon agreement by the holder, but in that event and if the original buyer is released from further liability the holder of the contract shall be entitled to a transfer of equity fee which shall not exceed fifteen dollars.

(L. 1963 p. 466 § 9)

365.100. Delinquency charges, interest, attorney fees.

- If the contract so provides, the holder thereof may charge and collect:

(1) A charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made, or when the installment is for twenty-five dollars or less, a charge for late payment for a period of not less than fifteen days shall not exceed five dollars, provided, however, that a minimum charge of one dollar may be made;

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs; and

(3) A dishonored or insufficient funds check fee equal to such fee as provided in section 408.653, RSMo, in addition to fees charged by a bank for each check, draft, order or like instrument which is returned unpaid.

(L. 1963 p. 466 § 10, A.L. 1994 S.B. 718, A.L. 2002 S.B. 895)

365.110. Blank spaces in contract prohibited -

exceptions. - No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying number or marks or similar information and the due dates of the installments may be inserted in the contract after its execution, and except that the contract may be so signed provided the buyer is given at the time of the execution a bill of sale, invoice or similar memorandum clearly indicating the cash sale price, the gross down payment and the types of insurance coverage. The buyer's written acknowledgment, conforming to the requirements of subsection 4 of section 365.070, of delivery of a copy of a contract shall be conclusive proof of the delivery, that the contract when signed did not contain any blank spaces except as herein provided, and of compliance with section 365.070 in any action or proceeding by or against a holder of the contract without knowledge to the contrary when he purchased the contract.

(L. 1963 p. 466 § 11)

365.120. Time price differential, computed

how. - 1. Notwithstanding the provisions of any other law, the time price differential included in a retail installment transaction on any motor vehicle without regard to the year model designated by the manufacturer, the retail seller may charge, contract and receive any time price differential agreed to by the retail buyer, expressed in the contract as a percent per annum that shall apply to the contract regardless of its repayment schedule.

2. The time price differential shall be computed on the principal balance as a percent per annum. A minimum time price differential of twenty-five dollars may be charged on any retail installment transaction.

(L. 1963 p. 466 § 12, A.L. 1980 H.B. 1195, A.L. 1981 S.B. 5 Revision, A.L. 2002 HB 2008)

365.125. Rates, parties may agree to a rate,

restrictions. - As an alternative to the time price differential authorized by section 365.120, the parties may agree to any rate or amount of time price differential not exceeding a rate or amount authorized by section 408.450, RSMo, but any such agreement shall be subject to the restrictions and conditions of sections 408.450 to 408.467, RSMo.

(L. 1984 H.B. 1170)

365.130. Assignment of contract - refinance

charge, computed how. - 1. Any person may purchase or acquire or agree to purchase or acquire from any seller any contract on such terms and conditions and at such price as may be agreed upon between them. Filing of the assignment notice to the buyer of the assignment, and any requirement that the holder maintain dominion over the payments or the motor vehicle if repossessed shall not be necessary to the validity of a written assignment of a contract as against creditors, subsequent purchasers, pledges, mortgages and lien claimants of the seller. Unless the buyer has notice of the assignment of his contract, payment thereunder made by the buyer to the last known holder of the contract shall be binding upon all subsequent holders.

2. The holder of a retail installment contract upon request by the buyer may agree to an amendment thereto to extend or defer the scheduled due date of all or any part of any installment or installments to renew, restate or reschedule the unpaid balance of such contract, and may collect for same a refinance charge not to exceed an amount computed as follows: If all or any part of any installment or installments is deferred for not more than two months the holder may at his election charge and collect on the amount deferred for the period deferred a refinance charge computed at a rate which will not exceed the same yield as is permitted on monthly payment contracts under subsection 1 of section 365.120; provided that the minimum deferment charge shall be one dollar. Such amendment may also include payment by the buyer of the additional cost to the holder of premiums for continuing in force any insurance coverages provided for in the contract and any additional necessary official fees. In any other extension, renewal, restatement or rescheduling of the unpaid balance, the refinance charge may be computed as follows: The sum of the unpaid balance as of the refinancing date and the cost for any insurance and other benefits incidental to the refinancing, any additional necessary official fees, and any accrued delinquency and collection charges, after deducting a refund credit as for prepayment pursuant to section 365.140, shall constitute a principal balance, the refinance charge may be computed for the term of the refinanced contract at the applicable rate for finance charges provided in subsection 1 of section 365.120 obtained by reclassifying the motor vehicle by its year model at the time of the refinancing. The provisions of this chapter relating to minimum finance charges under subsection 2

of section 365.120 and acquisition costs under the refund schedule in section 365.140 shall not apply in calculating refinance charges. The amendment to the contract must be confirmed in a writing which shall set forth the terms of the amendment and the new due dates and amounts of the installments, and shall either be delivered to the buyer or mailed to him at his address as shown on the contract. Said writing together with the original contract and any previous amendments thereto shall constitute the retail installment contract.

(L. 1963 p. 466 § 12)

365.140. Prepayment of debt under retail installment contract - refund, how computed. -

Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080.

(L. 1963 p. 466 § 13, A.L. 1986 H.B. 1207, A.L. 2002 S.B. 895)
Effective 7-1-03

365.145. Default - discrimination, law applicable to retail installment transactions. - Sections 408.551 to 408.562, RSMo, shall apply to any retail installment transaction made pursuant to sections 365.010 to 365.160.

(L. 1984 H.B. 1170)

365.150. Violation a misdemeanor - penalty - recovery barred - correction of violation, effect. - 1. Any person who knowingly violates any provision of this chapter or engages in the business of a sales finance company in this state without a license therefor as provided in this chapter is guilty of a class B misdemeanor.

2. Any person violating section 365.070, 365.080, 365.090, 365.100, 365.110, 365.120, 365.130, 365.140, or 365.145 shall be barred from recovery of any time price differential, delinquency or collection charge on the contract.

3. Notwithstanding the other provisions of this section, the failure to comply with any provision of this chapter with respect to any retail installment transaction may be corrected by the seller or holder within thirty days after the date of the sale, and, if so corrected, neither the seller nor the holder shall be subject to any criminal penalty or civil forfeiture under this chapter for the failure.

(L. 1963 p. 466 § 14, A.L. 1984 H.B. 1170)

365.160. Waiver unenforceable. - Any waiver of the provisions of this chapter is unenforceable and void.

(L. 1963 p. 466 § 15)

365.200 Additional time sales contracts – definitions – 1. For any motor vehicle which is not subject to the Missouri motor vehicle time sales law as provided in sections 365.010 to 365.160, a seller is permitted to include in the contractual time sale of a motor vehicle the outstanding balance of a prior loan or lease of a motor vehicle used as a trade-in. For the purposes of this section, a "**time sale contract**" is a contract evidencing an installment transaction entered into in this state

pursuant to which the title to or a lien upon the motor vehicle which is the subject of the installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a security agreement or a contract for the bailment or leasing of the motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of a motor vehicle upon satisfying the contract. "**Motor vehicle**" is any new or used automobile, mobile home, motorcycle, truck, trailer, semitrailer, truck tractor or bus.

2. Any seller as provided in this section shall first qualify as a retail seller pursuant to sections 365.010 to 365.160.

(L. 1999 S.B. 386)

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